In the High Court of Uttaranchal, at Nainital.

Criminal Revision No. 108/2001

(Old No. 1865 of 1999)

Keshar Ram –Revisionist.

Vs.

State of U.P. – Respondent.

Sri M.C. Kandpal, counsel for the revisionist.
Sri K.S. Rautela, learned Brief Holder for the State.

Dated: 1st of November, 2004.

Hon'ble Irshad Hussain, J.

Heard Sri M.C. Kandpal, learned counsel for the revisionist and Sri K.S. Rautela, learned Brief Holder for the State.

2- This criminal revision has been filed against the judgment and order dated 79-1999 passed by the III Additional Sessions Judge, Nainital, in criminal appeal no. 39 of 1998, dismissed the appeal and upheld the judgment and order dated 24-9-1998 passed by the Judicial Magistrate, Haldwani in criminal case no. 502/1995, by which the learned Magistrate convicted the revisionist under Section 427 I.P.C. and sentenced him to undergo six months Simple Imprisonment and to pay a fine of Rs. 5000/- and in default of payment of fine to further undergo two months S.I.

3- Learned counsel for the revisionist did not dispute the finding of fact as regards the conviction recorded on the basis of the material on record but limited his argument on the quantum of sentence. The revisionist had been sentenced to undergo six months S.I. and to pay a fine of Rs. 5000/- and n default of payment of fine to undergo further S.I. for two months. Record reveal that some damage was caused to the forest products. The learned counsel argued that the revisionist had been residing in forest and his petition for regularization has been pending since long. It appear that while keeping his residence in the forest some damage has been caused to the forest products and considering this aspect of the matter the

ends of justice will be satisfied if the sentence of imprisonment is set aside and the sentence of fine awarded is maintained.

4- In view of above the revision is partly allowed. The conviction of the revisionist under Section 427 I.P.C. is maintained. The sentence of imprisonment is set aside. However sentence of fine of Rs. 5000/- is maintained. The fine, if not deposited, shall be deposited with the magistrate concerned within a period of 3 (three) months. In default of payment of fine the revisionist shall undergo 2(two) months S.I.

5- Let the record be sent to the Magistrate concerned for compliance and the compliance report be submitted within four months.

(Irshad Hussain, J.)

ISB